



2021-17431

05/05/2021 12:59:38 PM

Recording fees paid:
\$34.00

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Pages: 5

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Farnham & Griffin, PC, LLO
220 N. 89th Street, Suite 201
Omaha, NE 68114

**DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS AND EASEMENTS
FOR 370 NORTH, REPLAT TWO**

THIS DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR 370 NORTH, REPLAT TWO ("Declaration".) is made effective on this 23rd day of MARCH, 2021, by Dowd Grain Company, Inc., a Nebraska corporation, or its successors and assigns ("Declarant").

RECITALS

A. Declarant is the sole owner of certain real property situated in the County of Sarpy, State of Nebraska, legally described as follows, to-wit:

Lots 2 through 7, 370 North, Replat Two, a subdivision, as surveyed, platted and recorded in Sarpy County, Nebraska, being a replatting of Lot 15, 370 North, a subdivision, as surveyed, platted and recorded in Sarpy County, Nebraska

and

Lot 1, 370 North Replat Four, a subdivision in Sarpy County, Nebraska, being a replatting of Lot 1, 370 North Replat Two and Outlot "E", 370 North, Subdivisions in Sarpy County, Nebraska

(referred to collectively as the "Property").

B. Declarant intends by this Declaration to impose upon the Property certain covenants, conditions, and restrictions.

C. By virtue of the recording of this Declaration, the Property shall be owned, held, transferred, sold, leased, conveyed, developed, used, occupied, operated, improved and mortgaged or otherwise encumbered subject to the provisions of this Declaration and every

grantee of any interest in any Lot or any portion thereof, by acceptance of a deed or other conveyance of such interest, and every Owner of a Lot or any portion thereof, whether or not such deed or other conveyance of such interest shall be signed by such person and whether or not such person shall otherwise consent in writing, shall own and take subject to the provisions of this Declaration and shall be deemed to have consented to the terms hereof.

D. Declarant does hereby specify, agree, designate and direct that this Declaration and all of its provisions shall be and are covenants to run with the Lots and shall be binding on the present owners of the Lots and all its successors and assigns and all subsequent owners of the Lots and Improvements (as defined below), together with their grantees, successors, heirs, executors, administrators, devisees and assigns.

NOW, THEREFORE, Declarant hereby imposes the following covenants, conditions and restrictions on the Property, which shall run with the equitable and legal title to the land and shall be for the benefit of the owner of Lot 1, their respective heirs, legal representatives, successors and assigns, and any mortgagees.

ARTICLE I. USE RESTRICTIONS

Without the prior written consent of the owner of Lot 1, no part of Lots 2, 3, 4, 5, 6, and/or 7, 370 North Replat Two, shall be used for the operation of a business specializing in home improvements or home improvement products, including for example, hardware stores, appliance stores, carpet, paint, tile, or flooring stores, plumbing stores, light or electrical stores, a home center business, or a garden center or as a home center business substantially similar to a Menard's, including for example, Orschlen Farm & Home Supply, Rural King Supply, Tractor Supply, Ace Hardware, ACO Hardware, Builder's FirstSource, Busy Beaver Building Centers, Do It Best, 84 Lumber Company, Harbor Freight Tools USA, The Home Depot, Lampert Yards, Lowe's, LumberJack Building Centers, Sears, Sutherland Lumber, True Value, Charles Kirchner & Sons, Consolidated Lumber, Mills Fleet Farm, Farm & Fleet, National Home Centers, R.P. Lumber Company, Riggs Supply Company, Running Farm & Fleet, Seigle's, Stock Building Supply, Theisen Supply, United Building Centers, Bomgaars, Buchheit, Farm King Supply, Olney Rural King Supply, Floor & Décor, or Big R Stores;

ARTICLE II HEIGHT, FRONTAGE AND FLOOR AREA RATIO LIMITATIONS

2.1 Height Restrictions. No buildings constructed on Lots 3, 4, 5, 6, or 7, 370 North Replat Two, shall exceed one (1) story in height, with said story to be a maximum of 29 feet in height, except for architectural features which may be 33 feet in height, provided such architectural feature does not exceed 25% of the building frontage.

2.2 Building Frontage – Lots 4 and 7. Building frontage for Lots 4 and 7, 370 North Replat Two, shall not be in excess of fifty-five percent (55%) of lot width along Highway 370.

2.3 Building Frontage – Lots 5 and 6. Building frontage for Lots 5 and 6, 370 North Replat Two, shall not be in excess of sixty-five percent (65%) of lot width along Highway 370.

2.4 Floor Area Ratio Limitations. No building constructed on Lots 4, 5, 6, or 7, 370 North Replat Two, shall have a Floor Area Ratio (“FAR”) in excess of eighteen percent (18%) of the total size of any lot or combined lots.

ARTICLE III ADDITIONAL PROVISIONS

3.1 Constructive Notice and Acceptance of Declaration. Every Person who now or hereafter owns or acquires any right, title or interest in or to any portion of 370 North, Replat Two, is and shall be conclusively deemed to have consented and agreed to this Declaration, whether or not any reference to this Declaration is contained in the instrument by which such person or entity acquired an interest in said 370 North, Replat Two.

3.2 Governing Law. This Declaration shall be governed by and construed in accordance with the laws of the State of Nebraska. Venue for enforcement hereof shall lie exclusively in Sarpy County, Nebraska, and each Person with rights hereunder hereby waives the right to sue or be sued in any other place.

3.3 Mutuality and Reciprocity. This Declaration is made for the direct, mutual and reciprocal benefit of each and every Lot within 370 North, Replat Two; shall create mutual, equitable servitudes upon each Lot within 370 North, Replat Two, in favor of every other Lot of 370 North, Replat Two; and shall create reciprocal rights and obligations between the respective Owners and privity of contract and estate between all grantees of real property in 370 North, Replat Two, their heirs, successors and assigns.

3.4 Declarant's Disclaimer. Declarant makes no warranties or representations that the plans presently envisioned for the development of 370 North, Replat Two, can or will be carried out, or that any Lot is or will be committed to or developed for any particular use. In addition, while Declarant has no reason to believe that any of the provisions of this Declaration are or may be unenforceable, Declarant makes no representations as to enforceability. Declarant shall have no liability for the development of 370 North, Replat Two or the enforcement of this Declaration.

3.5 Headings. Headings, where used herein, are inserted for convenience only and are not intended to be a part of this Declaration or in any way to define, limit or describe the scope and intent of the particular paragraphs to which they refer.

3.6 Effect of Invalidation. If any provision of this Declaration is held to be invalid by any court, the same shall not affect the validity of the remaining provisions of this Declaration and all remaining provisions shall continue unimpaired and in full force and effect.

3.7 Notices.

3.7.1 To Declarant. Any and all notices, or other communication made pursuant hereto, shall be in writing and shall be deemed properly delivered, given

to or received by Declarant (a) when personally delivered against receipted copy, or (b) four (4) business days after being mailed by certified or registered mail, postage prepaid; in either case to the Declarant at the following address:

Dowd Grain Company, Inc.
220 N. 89th Street, Suite 201
Omaha, NE 68114

Declarant may change its address by (i) giving notice to all Owners, or (ii) recording a Notice of Change of Address in the Office of the Register of Deeds of Sarpy County, Nebraska.

3.7.2 To Owners. A notice to any Owner shall be deemed duly given, delivered and received (a) when personally delivered against receipted copy, or (b) four (4) business days after mailing by certified or registered mail, postage prepaid; in either case to the address of the Owner's Lot or to such other address as the Owner has specified in writing to the Association.

3.8 Requirements of City. The covenants and restrictions contained herein are in addition to the requirements, codes and ordinances imposed by the City on 370 North, Replat Two and to the requirements imposed by the Declaration of Covenants, Conditions, Restrictions and Easements for 370 North dated June 19, 2017 recorded on June 21, 2017 at Instrument No. 2017-14411 in the Records of the Sarpy County Register of Deeds. In the event of a conflict or inconsistency between the provisions of this Declaration and the requirements, codes or ordinances of the City applicable to 370 North, Replat Two, then the more restrictive requirement shall govern.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, Declarant has executed this Declaration the day and year first above written.

DECLARANT:

DOWD GRAIN COMPANY, INC.,
a Nebraska corporation

By: *Duane J. Dowd*
Its: *President*

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

Before me, the undersigned Notary Public in and for said county and state, appeared Duane J. Dowd, President of Dowd Grain Company, Inc., a Nebraska corporation, known to me to be the identical person who executed the above instrument and acknowledged the execution thereof to be his voluntary act and deed on behalf of said corporation.

WITNESS my hand and Notarial Seal this 23rd day of March, 2021.

Jeffrey B. Farnham
Notary Public

